GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

UNSTARRED QUESTION NO:7
ANSWERED ON:18.07.2016
Working Visa Issue in WTO
Maragatham Smt. K.

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether India has taken up the issue of the decision of the United States to impose higher fees and the numerical limits on work visas such as L-1 and H-1B in the World Trade Organisation;

(b) if so, the details thereof along with the response received therefrom;

(c) whether the Government has claimed that these and comparable measures imposed on the country are not in conformity with several provisions of the General Agreement on Trade in Services (GATS) including those on movement on natural persons supplying services; and

(d) if so, the details thereof?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (INDEPENDENT CHARGE)
(SMT. NIRMALA SITHARAMAN)

(a): Yes Madam.

(b): India has taken up the matter in the Dispute Settlement Body of the World Trade Organisation (WTO) with respect to the following two measures by the US:
(i) Measures relating to fees for L-1 and H-1B non-immigrant visas;
(ii) Measures relating to numerical commitment for H-1B visas.
Consultations with the US authorities on the above measures was held on 11-12 May, 2016 at the WTO, Geneva. The US side provided certain information with respect to the above measures and maintained that the measures are fully consistent with its WTO obligations.

(c): Yes.

(d): According to India, the US measures viz. Public Law 114-113 and Public Law 111-230 on non-immigrant visas such as H1B and L1 appear to:
(i) be inconsistent with the terms, limitations and conditions specified by the United States in its Schedule of Specific Commitments under the GATS,
(ii) accord to juridical persons of India having a commercial presence in the United States treatment that is less favourable than that accorded to juridical persons of the United States, as well as juridical persons of any other country, engaged in providing like services in sectors such as the Computer and Related Services sector, with respect to which the United States has taken commitments in its Schedule of Specific Commitments, and
(iii) affect the movement of natural persons seeking to supply services in a manner that is inconsistent with the United States" commitments in its Schedule of Specific Commitments. These measures also appear to nullify or impair the benefits accruing to India directly and indirectly under the GATS.
The Government of India is of the view that these and comparable measures, (as well as any amendments, related measures, or implementing measures), taken by the United States are not in conformity with at least the following provisions of the GATS: Articles II, V:4, XVI, XVII, XX, and paragraphs 3 and 4 of the GATS Annex on Movement of Natural Persons Supplying Services. These measures also appear to be inconsistent with Articles III:3, IV:1 and VI:1 of the GATS.
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